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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

PUBLIC COPY

ADMINISTRATIVE APPEALS OFFICE

425 Eye Street N.W.

BCIS, AAO, 20 Mass, 3/F

Washington, D. C. 20536

FILE:

Office: SAN FRANCISCO, CA

Date:

MAY 16 2003

IN RE: Applicant:

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

MAY 16 03-03H2212

DISCUSSION: The waiver application was denied by the District Director, San Francisco, California. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be granted and the previous decisions of the district director and the AAO will be affirmed.

The record reflects that the applicant is a native and citizen of Mexico. The applicant was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation. The applicant is the beneficiary of an approved petition for alien relative as the unmarried son of a U.S. citizen, and he seeks a waiver of inadmissibility in order to remain in the United States with his father.

The district director found that the applicant failed to establish that his father would suffer extreme hardship if the applicant were removed from the United States. The district director reasoned that:

[T]he applicant has merely stated that his father would [suffer] emotional and psychological trauma but has not submitted any medical evidence describing these potential afflictions. The hardships described in the applicant's affidavit . . . are nothing more [than] the usual hardships that result from separation from a family member.

See *District Director Decision*, dated September 25, 2001 at 4. On appeal, the AAO affirmed the district director's decision stating:

A review of the documentation in the record, when considered in its totality, reflects that the applicant has failed to show that the qualifying relative (his father) would suffer extreme hardship over and above the normal economic and social disruptions involved in the removal of a family member, particularly considering the fact that the applicant's six siblings and his mother live in the United States

In his motion to reopen, the applicant, through counsel, asserts that new evidence consisting of a medical report from Dr. [REDACTED] establishes that the applicant's father (Mr. [REDACTED]) would suffer extreme hardship if the applicant were removed from the United States.

Counsel's assertions are not persuasive. Dr. [REDACTED] July 18, 2002, letter states that based on two hours of interviews with both Mr. [REDACTED] and the applicant, he is providing his *impressions* of the hardship that Mr. [REDACTED] would suffer if the applicant were removed from the U.S. The letter is speculative and vague and it lacks probative value. The letter contains no medical diagnoses or conclusions regarding Mr. [REDACTED] mental state. Dr. [REDACTED] letter additionally contains no information about the medical methods used to reach his impressions and it does not discuss ongoing visits or treatment plans. Furthermore, the letter contains no information regarding Dr. [REDACTED] credentials or background, and it does not establish that Dr. [REDACTED] is qualified to assess Mr. [REDACTED] mental state.

No other new information or evidence was submitted to support counsel's assertion that Mr. [REDACTED] would suffer extreme hardship if the applicant were removed from the United States.

Based on the evidence in the record, the applicant has failed to establish that Mr. [REDACTED] would suffer extreme hardship if the applicant were removed from the United States. This office therefore affirms the previous district director and AAO decisions based on the reasoning set forth in each decision.

ORDER: The motion to reopen is granted and the prior district director and AAO decisions are affirmed.